Calendar No. 1231

77TH CONGRESS, 2d Session } SENATE { REPORT No. 1192

EXTEND THE CREDITING OF MILITARY SERVICE OF THE RAILROAD RETIREMENT ACT

MARCH 24 (legislative day, MARCH 5), 1942.—Ordered to be printed

Mr. WHEELER, from the Committee on Interstate Commerce, submitted the following

REPORT

[To accompany H. R. 6387]

The Senate Committee on Interstate Commerce, to whom was referred the bill (H. R. 6387) which is to extend the crediting of military service of the Railroad Retirement Act, and for other purposes, having considered the same, report thereon with recommendation that it do pass without amendment.

The bill, H. R. 6387, introduced by Congressman Crosser is a companion to Senate bill 1224 introduced by Senator Wheeler.

The principal objective of this legislation is to give credit to railroad employees for service in the armed forces of the United States. To be eligible for benefits under the Railroad Retirement Act, an employee must have certain periods of service. This legislation would give a railroad employee who either enlisted or was drafted while working, credit for time served in the Army or Navy until he was discharged at the rate of $160 a month.

The House conducted hearings on the legislation. Only two witnesses appeared—Mr. Murray Latimer, Chairman of the Railroad Retirement Board, and Mr. Julius Luhrsen, secretary of the Railroad Labor Executives Association. The railroads have not objected to this legislation which recently passed the House by unanimous vote.

Part II of title VI of the Second Revenue Act of 1940 gave credit for military service rendered prior to January 1, 1937. This being true, it is difficult to understand why employees who enlist or are conscripted during the present World War or since September 8, 1939, are not entitled to credit.

The bill (H. R. 6387) provides for every month of military service the individual will receive credit on the basis of $160. This figure has been reached by determining the base amount upon which the Railroad Retirement Board is presently paying benefits. Under the Carrier Taxing Act the carrier and the employee join to pay 6 percent

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of the compensation. It is estimated that the number of rail workers who will enter the armed forces will be somewhere between 20,000 or 25,000 men. This will mean a contribution by the Government of $2,300,000 to $2,880,000 annually in addition to the cost of crediting military service prior to January 1, 1937, which is estimated $500,000 annually.

If any beneficiary of the Railroad Retirement Act receives annuities or benefits from another act of Congress his benefits are decreased accordingly. It is feasible for the Railroad Retirement Board to work out methods by which the Government is credited where such is due.

The bill (H. R. 6387) deals with three other matters in addition to military service. They are (1) incompetence of beneficiaries, (2) simplification of payment of death benefits, (3) clarification of "employees" of railway labor organizations.

Benefits under the Railroad Retirement Act are paid to nearly 150,000 persons most of whom are elderly and whose mental facilities are not as keen as they once were. The Board receives—generally in good faith—many complaints charging that a beneficiary is not competent to handle the sums paid him. The question has arisen whether such allegations of incompetence are sufficient to put the Board on notice—and if incompetence is later established—if payments made previously were erroneously paid. The bill (H. R. 6387) would add a new section to the act of 1937 which would direct the Railroad Retirement Board to presume competence until the contrary is established by an appropriate authority. Such provision would also avoid unnecessary investigations.

Since the Railroad Retirement Act has been in effect almost without exception employees designate their spouse as beneficiary. Unmarried employees or childless widowers designate parents or brothers and sisters. Widowers with children name children and then grandchildren. Section 12 of the bill (H. R. 6387) writes into law such content. In the event there are no such survivors the death benefits would be used to meet last expenses upon application by persons affected and upon approval by the Board. It would doubtlessly meet the wishes of the overwhelming majority of employees. This provision would be effective only if the employee had failed to designate the person to whom benefits were to be paid.

At the present time the Board pays death benefits pursuant to the laws of the State in which the deceased employee was domiciled in the absence of any designation filed by the employee. There are some 2,400,000 persons to whom have accrued credits under the Retirement Act and despite an intensive campaign to secure designation of beneficiaries from them only about one-half of the eligibles responded. These designations were received largely from the older employees—and upon that basis about 60 percent death benefit claims have been adjudicated. However, the remaining claims which are on the average the smaller ones have required a long and tedious process of adjudication. The amendments to section 5 (a) of the Railroad Retirement Act contained in H. R. 6387 would greatly simplify and expedite the payment of death benefits in the absence of designations.

Sections 13, 14, and 15 of the bill (H. R. 6387) amend railway-labor-organization employee provisions of both the Railroad Retirement and Railroad Unemployment Insurance Acts. Present provisions in

these acts provide that an employee or officer of a rail labor organization may be an "employee" within the meaning of the act if the employer conducts the principal part of his business in the United States. The amendments in this bill establish certain criteria and standards by which the Board could determine eligibility. It is believed this amendment will execute the intent of Congress. The language of the amendment is as follows:

(The language italicized is new, and the matter in roman type is present law.)

SEC. 1532 (d). SERVICE.—An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however, That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway labor organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1), all or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to subsection (c) of section 1 of the Railroad Retirement Act of 1937 shall be applicable: Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

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